



General Assembly

January Session, 2011

Raised Bill No. 6490

LCO No. 3067

03067_____JUD

Referred to Committee on Judiciary

Introduced by:
(JUD)

***AN ACT ESTABLISHING A PROCEDURE FOR RELIEF FROM
CERTAIN FEDERAL FIREARMS PROHIBITIONS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective July 1, 2011*) (a) Any person having a
2 federal firearms disability under 18 USC 922(d)(4) and 18 USC
3 922(g)(4), as a result of an adjudication or commitment rendered in this
4 state, may petition the probate court for the district in which such
5 person resides for relief from the federal firearms disability that
6 resulted from such adjudication or commitment.

7 (b) The petitioner shall submit to the probate court, together with
8 the petition and the releases required by subsection (d) of this section,
9 information in support of the petition, including, but not limited to:

10 (1) Certified copies of medical records detailing the petitioner's
11 psychiatric history where applicable, including records pertaining to
12 the specific adjudication or commitment that is the subject of the
13 petition;

14 (2) Certified copies of medical records from all of the petitioner's

15 current treatment providers, if the petitioner is receiving treatment;

16 (3) A certified copy of all criminal history information maintained
17 on file by the State Police Bureau of Identification and the Federal
18 Bureau of Investigation pertaining to the petitioner or a copy of the
19 response from said bureaus indicating that there is no criminal history
20 information on file;

21 (4) Evidence of the petitioner's reputation, which may include
22 notarized letters of reference from current and past employers, family
23 members or personal friends, affidavits from the petitioner or other
24 character evidence; and

25 (5) Any further information or documents specifically requested by
26 the court, which documents shall be certified copies of original
27 documents.

28 (c) The petitioner shall cause a copy of the petition and all
29 supporting documents submitted to the probate court pursuant to
30 subsection (b) of this section to be delivered to the Commissioner of
31 Public Safety and shall certify to the probate court that such delivery
32 has been made.

33 (d) The petitioner shall provide for the release of all of the
34 petitioner's records that may relate to the petition, including, but not
35 limited to, health, mental health, military, immigration, juvenile court,
36 civil court and criminal records, on forms prescribed by the Probate
37 Court Administrator. The releases shall authorize the Commissioner of
38 Public Safety to obtain any of such records for use at the probate court
39 hearing or in any appeal from the decision of the probate court.

40 (e) The petitioner shall ensure that all required information
41 accompanies the petition at the time it is submitted to the court. Unless
42 specifically requested by the court, information provided after receipt
43 of the petition by the court shall not be considered. Information
44 specifically requested by the court must be received by the court no

45 later than fifteen days after the date of the request in order for the
46 information to be considered. The court may extend such time period
47 for good cause shown. Failure to provide the requested information
48 within such time period shall result in a denial of the petition.

49 (f) Upon the filing of the petition, the probate court shall set a date,
50 time and place for a hearing and shall give notice of such hearing to (1)
51 the petitioner, (2) the Commissioner of Public Safety, (3) the court that
52 rendered the adjudication or commitment, (4) the conservator
53 appointed for the petitioner, if any, and (5) any other person
54 determined by the court to have an interest in the matter.

55 (g) The court shall cause a recording of the testimony given at such
56 hearing to be made. Such recording shall be transcribed only in the
57 event of an appeal from the decision rendered by the probate court
58 under this section. A copy of such transcript shall be furnished without
59 charge to any appellant whom the probate court finds is unable to pay
60 for such copy. The cost of such transcript shall be paid from funds
61 appropriated to the Judicial Department.

62 (h) The petitioner shall have the burden of establishing by clear and
63 convincing evidence that (1) the petitioner is not likely to act in a
64 manner that is dangerous to public safety, and (2) granting relief from
65 the federal firearms disability is not contrary to the public interest. The
66 Commissioner of Public Safety and any other person determined by
67 the court to have an interest in the matter may present any and all
68 relevant information at the probate court hearing and in any appeal to
69 the Superior Court.

70 (i) In determining whether to grant relief under this section, the
71 court shall consider the following:

72 (1) The circumstances regarding the firearms disability imposed by
73 18 USC 922(d)(4) and 18 USC 922(g)(4);

74 (2) The petitioner's record, which shall include, at a minimum, the

75 petitioner's mental health records and criminal history records, if any;

76 (3) The petitioner's reputation, which the petitioner must
77 demonstrate through character witness statements, testimony or other
78 character evidence; and

79 (4) Any other relevant information provided by the petitioner, the
80 Commissioner of Public Safety or any other person determined by the
81 court to have an interest in the matter.

82 (j) In order to grant relief under this section, the court must find by
83 clear and convincing evidence that: (1) The petitioner will not be likely
84 to act in a manner dangerous to public safety, and (2) granting the
85 relief will not be contrary to the public interest. The court shall include
86 in its decision the specific findings of fact on which it bases its decision.

87 (k) The petitioner or the Commissioner of Public Safety may appeal
88 the final decision of the probate court to the Superior Court in
89 accordance with the provisions of section 45a-186 of the general
90 statutes. Notwithstanding any other provision of the general statutes,
91 any review of the decision of the probate court by the Superior Court
92 shall be de novo.

93 (l) Enforcement of any decision of the probate court granting relief
94 pursuant to the petition shall be stayed until the period in which to
95 take an appeal under section 45a-186 of the general statutes has
96 expired or, if an appeal is taken, until the final decision of the court. If
97 the court grants the relief and no appeal is taken or an appeal is taken
98 and the decision is upheld, the court granting relief shall notify the
99 Commissioner of Public Safety of that decision.

100 (m) As soon as practicable after receiving notice of the decision of
101 the court granting relief, the Commissioner of Public Safety shall (1)
102 coordinate the removal or cancellation of the record in the National
103 Instant Criminal Background Check System (NICS), and (2) notify the
104 Attorney General of the United States that the basis of the record no

105 longer applies.

106 (n) All proceedings in the probate court under the provisions of this
107 section shall be closed to the public and all records of the proceedings
108 shall be confidential and not subject to disclosure except to the
109 petitioner or his or her counsel and the Commissioner of Public Safety,
110 unless the probate court, after notice to the parties and a hearing,
111 determines that such records should be disclosed for good cause
112 shown.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>July 1, 2011</i>	New section
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Statement of Purpose:

To provide a process for a person prohibited from possessing or receiving firearms under federal law on account of such person's mental or developmental disabilities to be granted relief from that prohibition.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]